



in support of Chanel's Motion for Summary Judgment against Defendants Heather L. Gardner a/k/a/ Heather Benjamin and Corey Gardner, individually and d/b/a GardnerInc.net d/b/a ShopWithClass d/b/a Dez9erDreamz ("Defendants").

3. In my capacity as TCCL's Director, Internet Administration and Enforcement, I am responsible, in part, for Chanel's trademark anti-counterfeiting efforts in the United States, particularly as they relate to Internet enforcement. As a result, I am fully familiar with most aspects of the manufacture, sale, and distribution of genuine Chanel products, including high quality handbags, wallets, watches, sunglasses, keyrings, shoes, and hair accessories.

4. Prior to filing suit, Chanel received information that the Defendants were possibly selling handbags, wallets, watches, sunglasses, keyrings, shoes, hair accessories, and various other items under the Chanel Marks at issue in this action without Chanel's authorization through the website operating under the domain name GardnerInc.net. Defendants do not have, nor have they ever had, the right or authority to use the Chanel Marks for any purpose.

5. On or about November 11, 2005 and January 18, 2006, I accessed the Internet website GardnerInc.net in order to capture and download the pages of the website reflecting the products bearing various Chanel Marks offered for sale. True and correct copies of the relevant pages from the website GarnderInc.net I captured on November 11, 2005 and January 18, 2006 are attached as Exhibits "E" and "G," respectively, to Chanel's Motion for Summary Judgment against Defendants.

6. On or about November 11, 2005, I also accessed Sell.com, an Internet classifieds site, in order to capture and download the pages reflecting the products bearing various Chanel Marks offered for sale by the Defendants under the seller alias Dez9erDreamz. True and correct copies of the relevant pages from Sell.com I captured on November 11, 2005 and January 18,

2006 are attached as Exhibits "F" and "H," respectively, to Chanel's Motion for Summary Judgment against Defendants.

7. On or about January 18, 2006, I sent a cease and desist letter on behalf of Chanel to Defendants via Certified Mail and Email, requesting that they, among other things, cease all sales of products bearing counterfeit Chanel Marks. The letter sent by Certified Mail was accepted and signed by Corey Gardner. Additionally, I did not receive a rejection regarding the emails I sent. True and correct copies of Chanel's January 18, 2006 cease and desist letter, together with Corey Gardner's signature accepting the Certified Mail, are attached hereto as Exhibit "1."

8. On or about January 18, 2006, I received an email response from Defendants using the email address Corey@GardnerInc.net. In the email, Defendants promised to remove the items from their site that day. A true and correct copy of Defendants' reply to Chanel's cease and desist letter is attached hereto as Exhibit "2."

9. On or about January 18, 2006, I subsequently received an email response from Defendants stating, "Your items have all come off my site and will not be put back on." A true and correct copy of Defendants' subsequent reply to Chanel's January 18, 2006 cease and desist letter is attached hereto as Exhibit "3."

10. On or about January 26, 2006, I accessed the Internet website GardnerInc.net in order to capture and download the pages of the website reflecting the products bearing various Chanel Marks offered for sale. True and correct copies of the relevant pages from the website GardnerInc.net I captured January 26, 2006 are attached as Exhibit "I" to Chanel's Motion for Summary Judgment against Defendants.

11. On or about January 26, 2006, I sent a second cease and desist letter on behalf of Chanel to Defendants informing them of the counterfeit Chanel items remaining on their site. I again requested that they, among other things, cease all sales of products bearing counterfeit Chanel Marks. A true and correct copy of Chanel's second cease and desist letter of January 26, 2006 is attached hereto as Exhibit "4."

12. On or about January 26, 2006, I received an email response from Defendants stating, "I will remove them right now and email you with confirmation of this." A true and correct copy of Defendants' reply to Chanel's second cease and desist letter is attached hereto as Exhibit "5."

13. To date, I have not received a further response from the Defendants.

14. On or about September 29, 2006, I accessed the Internet website GardnerInc.net in order to capture and download the pages of the website reflecting the products bearing various Chanel Marks offered for sale. On the GardnerInc.net site, I found a link titled "50 – AA Chanel Bags added" with "For Chanel Click Here" immediately under the aforementioned title. The link led me to a Yahoo! photo album listing hundreds of Chanel items for sale under the seller alias ShopWithClass. True and correct copies of the relevant pages from the website GardnerInc.net and the Yahoo! photo album I captured on September 29, 2006 are attached as Exhibit "J" to Chanel's Motion for Summary Judgment against Defendants.

15. On or about December 18, 2006 and April 19, 2007, I again accessed the Yahoo! photo album for Defendants' seller alias ShopWithClass in order to capture and download the pages of the website reflecting the products bearing various Chanel Marks offered for sale. Additionally, on or about April 19, 2007, I accessed the Yahoo! photo album for Defendants' seller alias DesignerWholesale07 in order to capture and download the pages of the website

reflecting the products bearing various Chanel Marks offered for sale. True and correct copies of the relevant pages from the Yahoo! photo albums I captured December 18, 2006 and April 19, 2007, respectively, are attached as Exhibits "K" and "L" to Chanel's Motion for Summary Judgment against Defendants.

16. Additionally, on or about April 19, 2007, I accessed the Internet website DivineHandbags.net in order to capture and download the pages of the website reflecting the products bearing various Chanel Marks offered for sale by the Defendants. True and correct copies of the relevant pages from the website DivineHandbags.net I captured April 19, 2007 are attached as Exhibit "M" to Chanel's Motion for Summary Judgment against Defendants.

17. As a result of the availability of the counterfeit products being offered by Defendants, Chanel is highly likely to experience irreparable damage to its reputation among consumers unless the infringing activity alleged in the Complaint is stopped.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

FURTHER DECLARANT SAYETH NAUGHT.

Dated this 12<sup>th</sup> day of September, 2008.

  
LYNNETTE OKA

# **EXHIBIT 1**

# CHANEL

January 18, 2006

**BY EMAIL & CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

[heather@gardnerinc.net](mailto:heather@gardnerinc.net)

[corey@gardnerinc.net](mailto:corey@gardnerinc.net)

[Dez9erboutique@yahoo.com](mailto:Dez9erboutique@yahoo.com)

Heather L. Gardner, aka Heather Benjamin  
204 Eleanor Street  
Horseheads, NY 14845

Re: Sale of Counterfeit CHANEL Merchandise

Dear Ms. Gardner:

I am writing on behalf of Chanel, Inc. ("Chanel").

Chanel is the owner of the world famous CHANEL and CC Monogram trademarks (the "Chanel Marks"). Chanel owns numerous federal trademark registrations for the Chanel Marks. These registrations constitute conclusive evidence of our ownership of the Chanel Marks, as well as Chanel's exclusive right to use these Marks. As a matter of federal law, these trademark registrations have put you on constructive notice of Chanel's rights in the Marks.

It has come to our attention that you have been advertising and offering for sale handbags, watches and accessories which bear counterfeit Chanel marks. We are aware that you have advertised and sold these goods through [www.gardnerinc.net](http://www.gardnerinc.net) and [www.sell.com](http://www.sell.com).

Your conduct in offering for sale and selling unauthorized products bearing the Chanel Marks constitutes civil trademark counterfeiting under state and federal law and may also subject you to criminal penalties. The civil remedies available to Chanel may include the seizure and destruction of your goods, an injunction prohibiting your further use of the Chanel Marks, payment of Chanel's attorney fees, and payment to Chanel of three times the amount of money that you made from your sale of counterfeit Chanel merchandise.

In view of the foregoing, we request that you provide us with the following information if you are inclined to resolve this matter on an amicable basis:

1. The identity of the source of all products that you have offered to sell or sold bearing the Chanel Marks;

2. A description of all products that you have sold bearing the Chanel Marks;
3. An accounting of all products sold bearing the Chanel Marks, including the number of products sold, your purchase price for each piece of merchandise you sold, and the sale price that you received for each item sold;
4. A detailed list of all products that you have in inventory bearing the Chanel Marks and the location of the inventory;
5. The names of all purchasers to whom you have sold the counterfeit Chanel products.

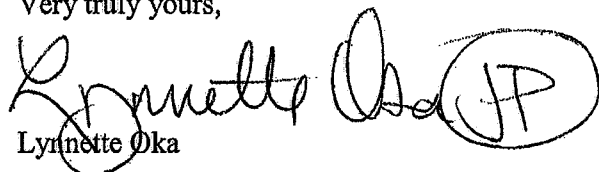
In addition to this information we must receive from you a written representation that you will:

- a. cease and desist from your sale of counterfeit or unauthorized merchandise bearing the Chanel Marks;
- b. deliver up to us for destruction all remaining inventory that you have of good bearing the Chanel Marks;
- c. reimburse Chanel for all monies spent in investigating your sale of counterfeit or unauthorized merchandise bearing the Chanel Marks;  
and
- d. provide payment to Chanel of all monies you received from the sale of said merchandise.

We anticipate receiving the requested information, materials and representations from you within two (2) weeks of the date of this letter. If such is not the case, we will have no alternative but to refer this matter for further legal action.

This letter is written without waiver of any of Chanel's rights or remedies, all of which are expressly reserved.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Lynette Oka', followed by a large circular stamp containing the letters 'JP'.

Lynette Oka



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>1. Article Addressed to:</p> <p>HEATHER L. GARDNER AKA HEATHER BARNUM 204 BRANDON ST. HORSEHARDS, NY 14045</p>		<p>2. Article (Trans.) 7005 1360 0004 3160 9638</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt</p>		<p>102585-02-M-1540</p>	
<p>1. Article Addressed to:</p> <p>HEATHER L. GARDNER AKA HEATHER BARNUM 204 BRANDON ST. HORSEHARDS, NY 14045</p>		<p>3. Signature X <i>Heather L. Gardner</i></p>	
<p>2. Article (Trans.) 7005 1360 0004 3160 9638</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>PS Form 3811, February 2004 Domestic Return Receipt</p>		<p>5. Registered Mail <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
<p>6. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		<p>7. Received by (Printed Name) <i>Cory Gardner</i></p>	
<p>8. Date of Delivery <i>1-25-06</i></p>		<p>9. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>10. If YES, enter delivery address below:</p>		<p>11. Signature <i>Heather L. Gardner</i></p>	
<p>12. Registered Mail <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>		<p>13. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>14. PS Form 3811, February 2004 Domestic Return Receipt</p>		<p>15. 102585-02-M-1540</p>	

Lynnette Oka

01/18/2006 12:50 PM

To: heather@gardnerinc.net, corey@gardnerinc.net,  
Dez9erboutique@yahoo.com

cc:

Subject: Sale of Counterfeit CHANEL Merchandise

Heather L. Gardner, aka Heather Benjamin  
204 Eleanor Street  
Horseheads, NY 14845

Re: Sale of Counterfeit CHANEL Merchandise

Dear Ms. Gardner:

I am writing on behalf of Chanel, Inc. ("Chanel").

Chanel is the owner of the world famous CHANEL and CC Monogram trademarks (the "Chanel Marks"). Chanel owns numerous federal trademark registrations for the Chanel Marks. These registrations constitute conclusive evidence of our ownership of the Chanel Marks, as well as Chanel's exclusive right to use these Marks. As a matter of federal law, these trademark registrations have put you on constructive notice of Chanel's rights in the Marks.

It has come to our attention that you have been advertising and offering for sale handbags, watches and accessories which bear counterfeit Chanel marks. We are aware that you have advertised and sold these goods through [www.gardnerinc.net](http://www.gardnerinc.net) and [www.sell.com](http://www.sell.com).

Your conduct in offering for sale and selling unauthorized products bearing the Chanel Marks constitutes civil trademark counterfeiting under state and federal law and may also subject you to criminal penalties. The civil remedies available to Chanel may include the seizure and destruction of your goods, an injunction prohibiting your further use of the Chanel Marks, payment of Chanel's attorney fees, and payment to Chanel of three times the amount of money that you made from your sale of counterfeit Chanel merchandise.

In view of the foregoing, we request that you provide us with the following information if you are inclined to resolve this matter on an amicable basis:

1. The identity of the source of all products that you have offered to sell or sold bearing the Chanel Marks;
2. A description of all products that you have sold bearing the Chanel Marks;
3. An accounting of all products sold bearing the Chanel Marks, including the number of products sold, your purchase price for each piece of merchandise you sold, and the sale price that you received for each item sold;
4. A detailed list of all products that you have in inventory bearing the Chanel Marks and the location of the inventory;

5. The names of all purchasers to whom you have sold the counterfeit Chanel products.

In addition to this information we must receive from you a written representation that you will:

- a. cease and desist from your sale of counterfeit or unauthorized merchandise bearing the Chanel Marks;
- b. deliver up to us for destruction all remaining inventory that you have of good bearing the Chanel Marks;
- c. reimburse Chanel for all monies spent in investigating your sale of counterfeit or unauthorized merchandise bearing the Chanel Marks; and
- d. provide payment to Chanel of all monies you received from the sale of said merchandise.

We anticipate receiving the requested information, materials and representations from you within two (2) weeks of the date of this letter. If such is not the case, we will have no alternative but to refer this matter for further legal action.

This letter is written without waiver of any of Chanel's rights or remedies, all of which are expressly reserved.

Very truly yours,  
Lynnette Oka

## **EXHIBIT 2**



corey gardner  
<corey@gardnerinc.net>  
>

To: Lynnette Oka/US/CHANEL@US\_CHANEL  
cc:  
Subject: Re: Sale of Counterfeit CHANEL Merchandise

01/18/2006 12:59 PM

I will remove your items from my site. I did not know there was a law in selling those items because I have found hundred of sites with the same items. As for Chanel items I have sold slim to none. I just added them on my site. I will remove them today.

--- Lynnette.Oka@chanelusa.com wrote:

> Heather L. Gardner, aka Heather Benjamin  
> 204 Eleanor Street  
> Horseheads, NY 14845  
>  
> Re: Sale of Counterfeit CHANEL  
> Merchandise  
>  
> Dear Ms. Gardner:  
>  
> I am writing on behalf of Chanel, Inc.  
> ("Chanel").  
>  
> Chanel is the owner of the world famous CHANEL  
> and CC Monogram  
> trademarks (the "Chanel Marks"). Chanel owns  
> numerous federal trademark  
> registrations for the Chanel Marks. These  
> registrations constitute  
> conclusive evidence of our ownership of the Chanel  
> Marks, as well as  
> Chanel's exclusive right to use these Marks. As a  
> matter of federal law,  
> these trademark registrations have put you on  
> constructive notice of  
> Chanel's rights in the Marks.  
>  
> It has come to our attention that you have  
> been advertising and  
> offering for sale handbags, watches and accessories  
> which bear counterfeit  
> Chanel marks. We are aware that you have advertised  
> and sold these goods  
> through www.gardnerinc.net and www.sell.com.  
>  
> Your conduct in offering for sale and selling  
> unauthorized products  
> bearing the Chanel Marks constitutes civil trademark  
> counterfeiting under  
> state and federal law and may also subject you to  
> criminal penalties. The  
> civil remedies available to Chanel may include the  
> seizure and destruction  
> of your goods, an injunction prohibiting your  
> further use of the Chanel  
> Marks, payment of Chanel's attorney fees, and

> payment to Chanel of three  
> times the amount of money that you made from your  
> sale of counterfeit  
> Chanel merchandise.

>  
> In view of the foregoing, we request that you  
> provide us with the  
> following information if you are inclined to resolve  
> this matter on an  
> amicable basis:

> 1. The identity of the source of all products  
> that you have offered to  
> sell or sold bearing the Chanel Marks;

> 2. A description of all products that you have  
> sold bearing the Chanel  
> Marks;

> 3. An accounting of all products sold bearing the  
> Chanel Marks,  
> including the number of products sold, your purchase  
> price for each piece  
> of merchandise you sold, and the sale price that you  
> received for each item  
> sold;

> 4. A detailed list of all products that you have  
> in inventory bearing  
> the Chanel Marks and the location of the inventory;

> 5. The names of all purchasers to whom you have  
> sold the counterfeit  
> Chanel products.

> In addition to this information we must  
> receive from you a written  
> representation that you will:

> a. cease and desist from your sale of counterfeit  
> or unauthorized  
> merchandise bearing the Chanel Marks;

> b. deliver up to us for destruction all remaining  
> inventory that you  
> have of good bearing the Chanel Marks;

> c. reimburse Chanel for all monies spent in  
> investigating your sale of  
> counterfeit or unauthorized merchandise bearing the  
> Chanel Marks; and

> d. provide payment to Chanel of all monies you  
> received from the sale of  
> said merchandise.

> We anticipate receiving the requested  
> information, materials and  
> representations from you within two (2) weeks of the  
> date of this letter.  
> If such is not the case, we will have no alternative

V V V V V V V V

✓  
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✓

> yours,  
>  
> Oka  
>  
>  
>

✓ Oka  
 ✓  
 ✓  
 ✓

## **EXHIBIT 3**



---

corey gardner <corey@gardnerinc.net>



corey gardner  
<corey@gardnerinc.net>  
>

To: Lynnette Oka/US/CHANEL@US\_CHANEL  
cc:  
Subject: Re: Sale of Counterfeit CHANEL Merchandise

01/18/2006 01:12 PM

Your items have all come off my site and will not be put back on. I further read your last email and we do not carry any items on hand.

Sincerely,  
Corey Gardner

--- Lynnette.Oka@chanelusa.com wrote:

> Heather L. Gardner, aka Heather Benjamin  
> 204 Eleanor Street  
> Horseheads, NY 14845  
>  
> Re: Sale of Counterfeit CHANEL  
> Merchandise  
>  
> Dear Ms. Gardner:  
>  
> I am writing on behalf of Chanel, Inc.  
> ("Chanel").  
>  
> Chanel is the owner of the world famous CHANEL

> and CC Monogram  
> trademarks (the "Chanel Marks"). Chanel owns  
> numerous federal trademark  
> registrations for the Chanel Marks. These  
> registrations constitute  
> conclusive evidence of our ownership of the Chanel  
> Marks, as well as  
> Chanel's exclusive right to use these Marks. As a  
> matter of federal law,  
> these trademark registrations have put you on  
> constructive notice of  
> Chanel's rights in the Marks.

>  
> It has come to our attention that you have  
> been advertising and  
> offering for sale handbags, watches and accessories  
> which bear counterfeit  
> Chanel marks. We are aware that you have advertised  
> and sold these goods  
> through www.gardnerinc.net and www.sell.com.

>  
> Your conduct in offering for sale and selling  
> unauthorized products  
> bearing the Chanel Marks constitutes civil trademark  
> counterfeiting under  
> state and federal law and may also subject you to  
> criminal penalties. The  
> civil remedies available to Chanel may include the  
> seizure and destruction  
> of your goods, an injunction prohibiting your  
> further use of the Chanel  
> Marks, payment of Chanel's attorney fees, and  
> payment to Chanel of three  
> times the amount of money that you made from your  
> sale of counterfeit  
> Chanel merchandise.

>  
> In view of the foregoing, we request that you  
> provide us with the  
> following information if you are inclined to resolve  
> this matter on an  
> amicable basis:

>  
> 1. The identity of the source of all products  
> that you have offered to  
> sell or sold bearing the Chanel Marks;

>  
> 2. A description of all products that you have  
> sold bearing the Chanel  
> Marks;

>  
> 3. An accounting of all products sold bearing the  
> Chanel Marks,  
> including the number of products sold, your purchase  
> price for each piece  
> of merchandise you sold, and the sale price that you  
> received for each item  
> sold;

>  
> 4. A detailed list of all products that you have  
> in inventory bearing

> the Chanel Marks and the location of the inventory;  
>  
> 5. The names of all purchasers to whom you have  
> sold the counterfeit  
> Chanel products.

>  
> In addition to this information we must  
> receive from you a written  
> representation that you will:

> a. cease and desist from your sale of counterfeit  
> or unauthorized  
> merchandise bearing the Chanel Marks;

> b. deliver up to us for destruction all remaining  
> inventory that you  
> have of good bearing the Chanel Marks;

> c. reimburse Chanel for all monies spent in  
> investigating your sale of  
> counterfeit or unauthorized merchandise bearing the  
> Chanel Marks; and

> d. provide payment to Chanel of all monies you  
> received from the sale of  
> said merchandise.

>  
> We anticipate receiving the requested  
> information, materials and  
> representations from you within two (2) weeks of the  
> date of this letter.  
> If such is not the case, we will have no alternative  
> but to refer this  
> matter for further legal action.

>  
> This letter is written without waiver of any  
> of Chanel's rights or  
> remedies, all of which are expressly reserved.

>  
> Very truly  
> yours,  
> Lynnette  
> Oka

>  
>  
>

## **EXHIBIT 4**

Lynnette Oka

01/26/2006 02:11 PM

To: corey gardner <corey@gardnerinc.net>@INT\_CHANEL  
cc: Lynnette Oka/US/CHANEL@US\_CHANEL  
Subject: Re: Sale of Counterfeit CHANEL Merchandise

Dear Ms. Gardner,

While we see that you have removed some of the pages, pages containing counterfeit Chanel still exist including the following:

<http://www.gardnerinc.net/chanelbags.html>

<http://www.gardnerinc.net/chanelaaawatches.html>

We request that you immediately:

- 1) Remove/delete all pages and containing counterfeit or unauthorized Chanel items;
- 2) Provide the name and contact information of the source;
- 3) Confirm that you will no longer sell counterfeit or unauthorized merchandise bearing Chanel marks;
- 4) Deliver to us for destruction all remaining inventory bearing Chanel marks at:  
Chanel, Inc.  
Legal Department  
9 West 57th Street  
New York, NY 10019

Thank you.  
Lynnette Oka.

corey gardner <corey@gardnerinc.net>



corey gardner  
<corey@gardnerinc.net>  
>

01/18/2006 01:12 PM

To: Lynnette Oka/US/CHANEL@US\_CHANEL  
cc:  
Subject: Re: Sale of Counterfeit CHANEL Merchandise

Your items have all come off my site and will not be put back on. I further read your last email and we do not carry any items on hand.

Sincerely,  
Corey Gardner

--- Lynnette.Oka@chanelusa.com wrote:

> Heather L. Gardner, aka Heather Benjamin  
> 204 Eleanor Street  
> Horseheads, NY 14845  
>  
> Re: Sale of Counterfeit CHANEL  
> Merchandise  
>  
> Dear Ms. Gardner:  
>  
> I am writing on behalf of Chanel, Inc.  
> ("Chanel").  
>  
> Chanel is the owner of the world famous CHANEL

## **Delivery Confirmation Report**

Your document: Re: Sale of Counterfeit CHANEL Merchandise  
was delivered  
to: corey@gardnerinc.net  
at: 01/26/2006 08:15:47 PM CET

## **EXHIBIT 5**

To: Lynnette Oka/US/CHANEL@US\_CHANEL  
cc:  
Subject: Re: Sale of Counterfeit CHANEL Merchandise

01/26/2006 02:29 PM

Thank you

--- Lynnette.Oka@chanelusa.com wrote:

> Dear Ms. Gardner,  
>  
> While we see that you have removed some of the  
> pages, pages containing  
> counterfeit Chanel still exist including the  
> following:  
> <http://www.gardnerinc.net/chanelbags.html>  
> <http://www.gardnerinc.net/chanelaaaawatches.html>  
>  
> We request that you immediately:  
> 1) Remove/delete all pages and containing  
> counterfeit or unauthorized  
> Chanel items;  
> 2) Provide the name and contact information of  
> the source;  
> 3) Confirm that you will no longer sell  
> counterfeit or unauthorized  
> merchandise bearing Chanel marks;  
> 4) Deliver to us for destruction all remaining  
> inventory bearing Chanel  
> marks at:  
> Chanel, Inc.  
> Legal Department  
> 9 West 57th Street  
> New York, NY 10019  
>  
> Thank you.  
> Lynnette Oka.

corey gardner

<corey@gardnerinc To:  
Lynnette Oka/US/CHANEL@US\_CHANEL  
.  
.net> cc:

> Subject: Re: Sale of Counterfeit CHANEL Merchandise

01/18/2006 01:12